

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

LEROY JOSEY,	:	CIVIL ACTION NO. 1:11-CV-2011
Petitioner	:	
	:	(Judge Conner)
v.	:	
	:	
JON FISHER, et al.,	:	
Respondents	:	

ORDER

AND NOW, this 7th day of December, 2011, upon consideration of the Report and Recommendation of United States Magistrate Judge J. Andrew Smyser (Doc. 6), recommending that petitioner's motion to amend (Doc. 5) be denied and the writ of habeas corpus (Doc. 1) be dismissed without prejudice, and, following an independent review of the record and noting that petitioner filed objections¹ to the Report and Recommendation on November 25, 2011 (Doc. 8), and the court finding Judge Smyser's analysis to be thorough and well-reasoned, and the court finding petitioner's objections to be without merit and squarely addressed by Judge Smyser's report, it is hereby ORDERED that:

¹ Where objections to a magistrate judge's report and recommendation are filed, the court must perform a *de novo* review of the contested portions of the report. Supinski v. United Parcel Serv., Civ. A. No. 06-0793, 2009 WL 113796, at *3 (M.D. Pa. Jan. 16, 2009) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(c)). "In this regard, Local Rule of Court 72.3 requires 'written objections which . . . specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for those objections.'" Id. (citing Shields v. Astrue, Civ. A. No. 07-417, 2008 WL 4186951, at *6 (M.D. Pa. Sept. 8, 2008)).

1. The Report and Recommendation of Magistrate Judge Smyser (Doc. 6) are ADOPTED.
2. Petitioner's motion to amend (Doc. 5) is DENIED.
3. Petitioner's Petition for Writ of Habeas Corpus (Doc. 1) is DISMISSED without prejudice to petitioner asserting his claims in a 42 U.S.C. § 1983 action.
4. The Clerk of Court is directed to CLOSE this matter.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge